



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

AUG 11 2016

Mr. Ali Mirzakhilili, Director
Division of Air and Waste Management
Delaware Department of Natural Resources
and Environmental Control
655 South Bay Road, Suite 5N
Dover, Delaware 19901

Dear Mr. Mirzakhilili:

Thank you for your August 3, 2016 email requesting preliminary U.S. Environmental Protection Agency (EPA) review of Delaware's proposed revisions to seven regulations that were identified as inadequate in EPA's June 12, 2015 Startup, Shutdown, and Malfunction (SSM) State Implementation Plan (SIP) Call (*see* 80 FR 33840): 7 DE Admin. Code 1104; 7 DE Admin. Code 1105; 7 DE Admin. Code 1108; 7 DE Admin. Code 1109; 7 DE Admin. Code 1114; 7 DE Admin. Code 1124; and 7 DE Admin. Code 1142.

EPA's comments are enclosed. If you have any questions, please do not hesitate to contact me or have your staff contact Ms. Irene Shandruk at (215) 814-2166 or shandruk.irene@epa.gov.

Sincerely,

A handwritten signature in blue ink, which appears to read "Cristina Fernandez", is positioned below the word "Sincerely,".

Cristina Fernandez,
Division Director

Enclosure



Enclosure

EPA's Comments on Delaware's Regulations Concerning SSM

- 1) For each provision that is being removed from the SIP or changed in the SIP, a demonstration under Clean Air Act (CAA) section 110(1) must be submitted as part of your SIP submittal to EPA. *See* 80 FR 33975, June 12, 2015.
- 2) For 7 DE Admin. Code 1108, Delaware states that the provision EPA identified as deficient (section 1.2) was removed from the regulation via a Secretary's Order on June 11, 2013, and the revised regulation was subsequently submitted to EPA as a SIP revision, and that no further action by Delaware is required. EPA notes that section 1.2 had been removed, however, a newly added section 3.0 (*Emission Control in Lieu of Sulfur Content Limits of 2.0 of This Regulation*) requires additional clarification.

Specifically, as per the September 20, 1999 Steven A. Herman memorandum entitled, "*State Implementation Plans (SIPs): Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown*," EPA indicates that, "for some source categories, given the types of control technologies available, there may exist short periods of emissions during startup and shutdown when, despite best efforts regarding planning, design, and operating procedures, the otherwise applicable emission limitation cannot be met," and that it may be appropriate "to create narrowly-tailored SIP revisions that take these technological limitations into account and state that the otherwise applicable emissions limitations do not apply during narrowly defined startup and shutdown periods." The guidance lists seven criteria that SIPs should meet in order to be approvable by EPA. EPA's policy and these seven criteria are again reiterated in EPA's June 12, 2015 SSM SIP Call rulemaking. *See* 80 FR 33980. Please provide an explanation of how section 3.0 of 1108 satisfies each of those seven criteria.

- 3) For 7 DE Admin. Code 1124, with the removal of section 1.4 from the regulation, the remainder of the sections should be renumbered.